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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/586,771
Filing Date: May 10, 2007
Appellant(s): NYSTROM ET AL.

Erin Nichols Matkaiti
For Appellant

EXAMINER'S ANSWER

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

This is in response to the appeal brief filed 10/27/10 appealing from the Office action mailed 3/3/10.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-7, 9-11, 15-19, 22-23 and 28-29.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

20040039661

Fuzell-Casey

2-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fuzell-Casey (US Pat. Pub. No. 2004/0039661).

Regarding claim 1:

Fuzell-Casey teaches a method comprising:

receiving at an apparatus, context information from an external source; (*see at least Fig. 2, paragraphs 24-29*)

selecting, at said apparatus, a data record out of a plurality of data records, wherein said plurality of data records are maintained for selecting; wherein said selecting of said data record is performed in accordance with said context information; (*see at least Fig. 2, paragraphs 24-29*)

supplying said selected data record to a radio frequency identification communication

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module within said apparatus; and providing said selected data record as an identification information by said radio frequency identification communication module for being retrievable wirelessly by an external entity through radio frequency identification interrogation. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 2:

Fuzell-Casey teaches a method according to claim 1, comprising scanning an environment of said apparatus to determine a presence of said external source. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 3:

Fuzell-Casey teaches a method according to claim 1 comprising analyzing at said apparatus said received context information for selecting said data record. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 4:

Fuzell-Casey teaches a method according to claim 3, wherein said analyzing comprises at least one operation out of said operations including at least:

extracting at said apparatus, from said received context information one or more commands instructing to select said data record; *(see at least Fig. 2, paragraphs 24-29)*

extracting at said apparatus an information item from said context information to be compared with data items comprised by said data records in order to allow for selecting said data record; *(see at least Fig. 2, paragraphs 24-29)* and

extracting at said apparatus an information item from said context information to be

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compared with association information in order to allow for selecting said data record.

(see at least Fig. 2, paragraphs 24-29)

Regarding claim 5:

Fuzell-Casey teaches a method according to claim 1 wherein each of said data records relates to at least one out of a group including at least payment related information, loyalty card related information, credit card related information, a debit card related information, a prepaid card related information, a coupon related information, a voucher related information and electronic ticket related information. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 6:

Fuzell-Casey teaches a method according to claim 1 wherein said supplying of said selected data record to said radio frequency identification communication module further comprises:

configuring, at said apparatus, said radio frequency identification communication module with said selected data record for providing said selected data record by said radio frequency identification communication module provided as said identification information. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 7:

Fuzell-Casey teaches a method according to claim 1 wherein said providing of said selected data record by said radio frequency identification communication module allows for wirelessly retrieving by a corresponding external counterpart radio frequency identification communication module of said external entity. *(see at least Fig. 2,*

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paragraphs 24-29)

Regarding claim 9:

Fuzell-Casey teaches a method according to claim 1 comprising:

revoking at said apparatus said provision of said selected data record in consequence

of at least one operation out of a set of operations including:

running down at said apparatus a predefined interval in time; *(see at least Fig. 2,*

paragraphs 24-29)

exceeding at said apparatus a predefined moment in time; *(see at least Fig. 2,*

paragraphs 24-29) and

detecting at said apparatus whether said external entity has retrieved said selected data

record provided as identification from said radio frequency identification communication

module. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 10:

Fuzell-Casey teaches a method according to claim 1 wherein said radio frequency

identification means communication module is operable with a reader mode and a

transponder mode, said method further comprising

operating said radio frequency identification communication module in said reader mode

for said acquisition of said context information; *(see at least Fig. 2, paragraphs 24-29)*

and

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operating said radio frequency identification communication module in said transponder mode for provision of said selected data record. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 11: See claim 1

Regarding claim 15:

Fuzell-Casey teaches an apparatus comprising:

radio frequency for receiving context information from an external source; *(see at least Fig. 2, paragraphs 24-29)*

selection means configured for selecting a data record out of a plurality of data records, wherein said plurality of data record is maintained by the apparatus for selection, wherein said selecting of said data record is operable in accordance with said context information; *(see at least Fig. 2, paragraphs 24-29)* and

configuration means configured for supplying said selected data record to a radio frequency identification communication module within said apparatus; *(see at least Fig. 2, paragraphs 24-29)*

wherein said radio frequency identification communication module is configured for providing said selected data record as an identification information for being wirelessly retrievable by an external entity through radio frequency identification interrogation. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 16:

Fuzell-Casey teaches an apparatus according to claim 15, wherein said radio frequency interface is further configured for scanning an environment of said apparatus in order to

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determine a presence of said external source. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 17:

Fuzell-Casey teaches an apparatus according to claim 15 wherein said radio frequency identification communication module is coupled electrically or wirelessly to said apparatus at least for a time.

Regarding claim 18:

Fuzell-Casey teaches an apparatus according to claim 15 comprising:

analysis means configured for analyzing said received context information wherein said apparatus further comprises at least one means out of:

extraction means configured for extracting from said received context information one or more commands and/or for extracting an information item from said context information, wherein said one or more commands instruct to select said data record; *(see at least Fig. 2, paragraphs 24-29)*and

comparison means configured for comparing said information item with data items comprised by said data records and/or for comparing said information item with association information such that the selection is operable with comparison results. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 19:

Fuzell-Casey teaches an apparatus according to claim 15 comprising:

revocation means configured for revoking said provision of said selected data record by said radio frequency identification communication module in consequence of a signal generated by at least one means out of:

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timer means configured to generate said signal in case a predefined interval in time has run down and/or in case a predefined moment in time has been exceeded; (*see at least Fig. 2, paragraphs 24-29*) and

detection means configured to detect whether said external entity has retrieved said selected data record provided as said identification information from said radio frequency identification communication module. (*see at least Fig. 2, paragraphs 24-29*)

Regarding claim 22:

Fuzell-Casey teaches an apparatus according to claim 15 wherein said radio frequency identification communication module is operable with a reader mode and a transponder communication module is operable with said reader mode for acquiring context information, wherein said radio frequency identification communication module is operable with said transponder mode for providing said selected data record as said identification information. (*see at least Fig. 2, paragraphs 24-29*) wherein said radio

Regarding claim 23:

Fuzell-Casey teaches an apparatus according to claim 15 wherein at least one of said means is implemented on the basis of a code section, which is configured to perform a function of said means, when carried out by a processing means comprised by said apparatus. (*see at least Fig. 2, paragraphs 24-29*)

Regarding claim 28:

Fuzell-Casey teaches that for the method according to claim 1, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source. *(see at least Fig. 2, paragraphs 24-29)*

Regarding claim 29:

Fuzell Casey teaches that for the apparatus according to claim 15, wherein said context information includes at least one of location information, an interval in time, a current time, an instruction identifying a specific data record of said plurality of data records, and an identification of said external source. *(see at least Fig. 2, paragraphs 24-29)*

(10) Response to Argument

Regarding claims 1, 11, and 15, Appellant asserts that the Fuzell-Casey reference does not disclose "providing the selected data record by a radio frequency communication module for being wirelessly retrievable through radio frequency identification interrogation." Based on an analysis of the reference, the Office respectfully disagrees with the Appellant's assertion. Paragraph 28 indicates the use of radio waves within the wireless functions of the Fuzell-Casey reference. The important aspects of Paragraph 28 are as follows:

"The preferred embodiment utilizes either the radio waves of a wireless modem to communicate with an externally located device, such as an email server, an Internet Service Provider, or a base station, such as the base server 210

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illustrated in FIG. 2, through one or more **wireless** I/O devices 220 connected to the base server 210. to determine the location of a user, such as different physical zones identified by some unique characteristic, such as a **different carrier wave** used to communicate within each zone."

The first portion of paragraph 28 teaches using radio waves for a wireless device (a PCD – handheld wireless device). Further, paragraph 28 also teaches using different carrier waves (based on different frequencies) to determine the location of different users. Fig. 2 is merely an indication of the teachings provided in paragraph 28. Thus, Fuzell-Casey teaches a radio frequency identification communication module.

Further, paragraph 24 teaches:

"The present invention is related to a **selection system**, and more particularly to a system that enables users to create an interactive list of items to select or locate within a store or geographic area, provides users with cues as to the location of such items within the store or area, progresses through the interactive list as such items are located, and provides information about, discounts on or alternatives to such items. **The selection system can also market information** to the user based on the interactive list of items and/or the user's proximity to an area or product."

The Appellant asserts that Fuzell-Casey does not select data records in accordance within some contextual information. As paragraph 24 clearly teaches, the

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Fuzell-Casey reference does disclose a selection system that sends information based upon a list of items or a user's proximity to an area (which is the contextual information)

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/ABDUL BASIT/

Examiner, Art Unit 3694

Conferees:

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694

/Alexander Kalinowski/AK/

Supervisory Patent Examiner, Art Unit 3691